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Die Methode einer wissenschaftlichen Rückfallsstatistik, als Grundlage einer Reform der Kriminalstatistik, von DR. O. KÖBNER. Pp. 124. Berlin: Guttentag. 1893.

The foregoing work upon the statistics of recidivism is appropriately dedicated to Professor Böckh, for it breathes the spirit of painstaking thought and irreproachable logic which marks the work of that master of statistical method. It can therefore claim an audience wider than the International Criminal Law Association, for which it was originally prepared, or of those interested only in the treatment of criminals.

The statistics of recidivism which we possess to-day, with trifling exceptions, are, the author contends, fundamentally wrong for the purposes to which they are usually applied. No mere perfection of the existing methods will suffice to bring additional light upon the vexed question at issue. A radical change of statistical methods is necessary for any true progress. Having thus stated his general doctrine, Dr. Köbner brings to its support an acute analysis of the methods now in vogue. According to them the number of recidivists is stated as a certain proportion of the persons accused or convicted of crime in a given year. In other words, of A convictions X persons had been previously convicted of crime and of these X' had received one prior conviction, X'' two prior convictions, and so on. No error whatever can be found in the statement, but the conclusion almost universally drawn from it is at fault. The conclusion is that among criminals such a proportion commit a crime a second time, such a proportion a third time and so forth. From this statement are drawn principles for the guidance of penal justice considerations as to the efficacy of penal systems and the like.

These latter conclusions as to the amount of recidivism are radically wrong since the factors compared are incommensurable. The ideal should be to ascertain how many of the persons convicted of crime in a given year subsequently fall into the clutches of the law. This is not shown by the figures commonly given. The number of convictions of 1891 cannot serve as a basis of comparison for the recidivists of that year, whose first convictions fell in an earlier period. In the first place population has grown, the number of convictions may be larger, in the second place crime ebbs and flows and the year may be one of unusual criminality. By the extent that the number of convictions of 1891 exceeds those of former years, the proportion of recidivism must appear more favorable. On the other hand a considerable number of the persons who in 1889 or 1890 committed crime may be incapacitated from so doing in 1891 by reason of restraint or death. Hence, in the usual comparison, we have on the one side, first crimes from a more or less constant number of persons capable of criminal acts, and on the

other, subsequent crimes from a constantly diminishing number of persons capable of such crimes.

All these factors operate to make the usual statistics deceptive, all showing a more favorable proportion of recidivism than actually exists. What then is the correct method? It has already been indicated. The number of recidivists of each yearly contingent must be compared, not with the general population, but with the number of persons convicted in the same year and capable of recidivism. The concluding proviso is of great weight. From the number of persons convicted in the previous year must necessarily be deducted those actually under restraint for crime or insanity and those who have died. The principle here noted by Dr. Köbner of comparing a phenomenon only with the field capable of producing it, is an eminently just one and applicable to statistics generally. The reviewer has had on several occasions to insist upon its application in our own country. In comparing the crime of foreign and native born, the fact cannot be overlooked that, in the general population the former are mainly adults, while the latter comprise an unusual proportion of children.

Is the ideal of comparing recidivists with those capable of recidivism, possible of realization? Dr. Köbner replies that in the European countries an excellent basis already exists in the judicial registers (*cahiers judiciaires*, *Strafregister*). This institution consists of records kept at the place of birth of all criminals, giving a connected story of their criminal career, noting in addition to their personal characteristics, all the convictions. Whenever a person is convicted of crime the fact is duly certified to the register authority by the convicting court. It will readily be seen how such an organization could be utilized for statistical purposes, especially that proposed by Dr. Köbner. Criminal statistics are to-day statistics of criminal cases, rather than of persons. By generalizing the idea suggested with reference to recidivism and basing all criminal statistics upon these registers Dr. Köbner claims that a salutary reform would be effected, since all duplications would be avoided. The practical working out of this plan belongs rather to the technique of statistics than its method, and we need not follow our author into this field.

We believe that in setting forth the ideas mooted in the work before us we have rendered it greater justice than would be attained by an extended criticism. If to the excellence of the ideas broached, we associate the graces of literary composition, which characterize the work, we can add no greater commendation. One of the chief duties of the professional statistician is to recognize the limitations of his instrument and overcome them. Dr. Köbner has in this work done both the first and the last. Others before him had already accom-

plished the former task, which we think does not sufficiently appear in Dr. Köbner's exposition, but to him belongs the lasting credit of having fulfilled the second requirement.

ROLAND P. FALKNER.

The Referendum in America. By ELLIS PAXSON OBERHOLTZER, Ph. D. Pp. 225. Publications of the University of Pennsylvania. Political Economy and Public Law Series, Vol. IV, No. 12. Philadelphia, 1893.

From time to time some political idea will take possession of the popular imagination, and have a wide run of discussion. The Australian ballot is an example resulting in great success. But each success brings a host of new claimants of more doubtful expediency. Just now the referendum is attracting a good deal of attention. It seems to be regarded as a Swiss institution, and something to be imported. Mr. Oberholtzer has done a service in pointing out, that, although not exactly in the same form as in Switzerland, it has always existed here and flourishes more or less, and with increasing vigor, in almost every State in the Union. The basis of its growth, as he says, is distrust of the State Legislatures. The tendency of State constitutional changes is to diminish the frequency and length of legislative sessions and to restrict the subjects under their control. A notable instance of this is in the matter of the city charters, discussed in Chapter IV, which shows them in some States to have been taken out of the hands of the legislatures, and left to be framed by a committee elected by the citizens, while the completed work is to be again submitted to the people for approval. Mr. Oberholtzer seems on the whole to approve of this tendency toward appeal to the people. We take the opposite view, believing that it really exaggerates the evil it is intended to cure. We cannot state this view better than in the words of a decision of the New York Court of Appeals, quoted in this book, in the case of *Barto vs. Himrod*. It should be premised that this, like all the cases quoted, turns upon the constitutionality of the referendum laws. That is of small importance, as the constitutions can be changed at the pleasure of the people. The real point to be considered is the policy of such laws, though that of course cannot come before the courts.

Mr. Justice Wilson said: "If this mode of legislation is permitted, and becomes general, it will soon bring to a close the whole system of representative government which has been so justly our pride. The Legislature will become an irresponsible cabal, too timid to assume the responsibility of law-givers, and with just wisdom enough to devise